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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,880	12/19/2001	Wim Boute	P-8927	8836

27581 7590 06/16/2004

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EXAMINER

BRADFORD, RODERICK D

ART UNIT PAPER NUMBER

3762

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,880

Applicant(s)

BOUTE ET AL.

Examiner

Roderick Bradford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/01/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11, 31-35, 38 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Ferek-Petric et al. U.S. Patent No. 6,473,638.

Referring to claims 1, 11 and 31, Ferek-Petric discloses a system for transmitting medical data obtained from a person to website comprising:

- A computer system accessible to said person, said computer having at least one simple port for receiving data in a prescribed form (20); signal means for obtaining data from a said person; transform means for transforming said data to simple port (Fig. 1B)
- A circuit connection for connecting said transformed data to said simple port (Fig. 1B)
- Said computer system having web site means for connecting through the internet to a web site (column 13, lines 39-43).

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Referring to claims 2 and 34, wherein said computer system comprises a PC having a keyboard port, and said circuit connection connects said transformed data to said keyboard port (Fig. 1B).

Referring to claims 3 and 35, wherein said computer system comprises a PC having a mouse port, and said circuit connection has for connecting said transformed data to said mouse port (Fig. 2).

Referring to claim 4, wherein the person has an implanted medical device, said signal means comprises a pacemaker programmer for receiving cardiac signals from the implanted medical device, and said transform means comprises means for transforming said cardiac signals into data acceptable for said simple port (column 9 line 62 - column 10 line 6).

Referring to claim 6, wherein said computer system has a mouse and a mouse port, and said circuit connection comprises a switch for providing a switchable connection between said transform means and said mouse port (Fig. 2).

Referring to claim 32, wherein said patient has an implanted pacemaker type device, comprising collecting data with said pacemaker type device and downloading said data with said pacemaker type device and downloading said data to a transmit/receive device, and transferring said data to said portable data transforming device (Fig. 1B).

Referring to claim 33, comprising providing a signal pickup device (22) and using said signal pickup device to obtain said patient medical data and connecting said signal device to said portable data transforming device (Fig. 1A).

Referring to claim 38, comprising using EKG device to obtain a patient EKG, and transferring said patient EKG to said portable data transforming device (Fig. 2).

3. Claims 1-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Nelson et al. U.S. Patent No. 6,564,104.

Referring to claims 1, 11, 15 and 31, Nelson discloses a system for transmitting medical data obtained from a person to website comprising:

- A computer system accessible to said person, said computer having at least one simple port for receiving data in a prescribed form (318); signal means for obtaining data from a said person; transform means for transforming said data to simple port (Fig. 1)
- A circuit connection for connecting said transformed data to said simple port (Fig. 1)
- Said computer system having web site means for connecting through the internet to a web site (column 8, lines 37-43).
- Providing the patient with a patient computer that has at least one simple bi-directional port, and logging on from said patient computer to a website (318)
- Transmitting said data from said patient computer to said website over the internet (Fig. 3).

Referring to claim 12, further comprising a website at remote computer, each of the local computer and said remote computer being connected to the internet, and said local computer having software for transmitting said transformed data over the internet

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to said remote computer and for receiving messages back from said remote computer (Fig. 3).

Referring to claim 17, wherein said patient has an implanted medical device comprising: telemetering data from said implanted device and receiving said data in an external T/R device, connecting said data from said T/R device to said portable interface unit, and logging onto a website from a patient computer (Fig. 3).

Referring to claim 19, comprising sending a command signal from said web site and transmitting said command signal through said port, said interface device and said T/R device to said implanted medical device (column 15, lines 3-31).

Referring to claim 24, comprising positioning a medical device as source for obtaining medical data from a patient, transferring said data to a portable interface unit, and transferring said data in said interface unit (column 15 line 65 – column 16 line 20).

Referring to claim 25, comprising obtaining cardiac signal data from an implanted pacemaker type device, telemetering said data to a pacemaker type device, and connecting said telemetered data through said portable interface unit to said patient computer (column 10, lines 21-49).

Referring to claim 36, comprising receiving and analyzing said data at said website, and transmitting reply data to a said computer to which the patient has access (column 20 lines 18-47).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 40-48 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nelson et al. U.S. Patent No. 6,418,346.

Referring to claim 40, Nelson discloses a portable battery powered device for transferring data between a patient's implanted pacemaker and a computer the computer having at least one simple port, the pacemaker having a telemetry system for

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sending signals to an external receiver (Fig 6A and 6C), said portable device comprising:

- A receiver for receiving data signals from said pacemaker
- Transform means for transforming said data into a form adapted for entry through said simple port (Fig 6A and 6C)
- Download means operable by a patient for transferring said transformed data to said port, said download means having an input/output port, whereby said data can be downloaded into a computer by said patient when said input/output port is connected to said computer (Fig 6A and 6C).

Nelson discloses the claimed invention except for encoding data and decoding data from signal means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Nelson, to include encoding and decoding signals means since it was well known in the art to include encoding and decoding signal means to ensure proper security while transmitting data.

Referring to claim 42, comprising selection means for selecting alternately storing said transformed data or downloading it to a computer (column 14, lines 5-8).

Referring to claim 43, comprising selection means for providing a plurality of options for receiving data and transmitting data (Fig. 5).

Referring to claim 45, comprising a plurality of input ports, and selection means for selecting one of said input ports for interconnection of said device to an external source of data (Fig. 1).

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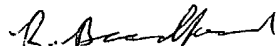
Referring to claim 47, wherein said algorithm means comprises keyboard means for transforming said data into a form adapted for entry through a computer keyboard (Figs. 1 and 5).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roderick Bradford whose telephone number is (703) 305-3287. The examiner can normally be reached on Monday - Friday 7 a.m. - 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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